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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,227	07/24/2003	George Irvin	21520-RA	4553

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EXAMINER

FASTOVSKY, LEONID M

ART UNIT PAPER NUMBER

3742

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/626,227

Applicant(s)

IRVIN, GEORGE

ED

Examiner

Leonid M Fastovsky

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-21 is/are pending in the application.
- 4a) Of the above claim(s) 18,199 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8,10-17,20 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because it contains the legal phraseologies such as "comprising" and "means". Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1-3 and 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Wilburn (3,990,536).

Wilburn teaches a hunting blind A comprising a floor 2, at least one shell overgarment 94, 126 covering wearer's head and body, including wearer's mouth and nose, means 82 for seating and catalytic heater H (col. 6, lines 29-44).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 10, 14 -16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamoto et al (6,098,612) in view of Shanks et al (3,798,676). Nakamoto discloses substantially the claimed invention including a temperature controlled garment 71, comprising a catalytic heater 101 and covering a wearer's body, torso and arms, but does not specifically disclose a garment covering a head, mouth and nose and comprising a base portion, means for seating and zipper. Shanks discloses a garment (Fig. 3) for protecting a person against harsh weather, covering the wearer's head including the mouth and nose, means for seating 13, a base 10a, 10b and a zipper 11. It would have been obvious to one having ordinary skill in the art to modify Nakamoto's invention to include a garment covering the head, mouth, nose and having a base and a zipper as taught by Shanks in order to provide better heat to a person covered by the garment.

6. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamoto in view of Shanks and further in view of Holly (4,241,721). Nakamoto in view of Shanks discloses substantially the claimed invention, but does not disclose a temperature control being secured around a body, and a collapsible chair. Holly discloses a body warmer 10 having a heat source 22 attached to a base 12 and secured by hinge 24 and a collapsible chair 74. It would have been obvious to one having ordinary skill in the art to modify the invention of Nakamoto in view of Shanks to include a temperature control garment secured around a fixed object and a collapsible chair as taught by Holly in order to provide better heat and a more compact heating garment.

7. Claims 8 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamoto in view of Shanks and further in view of DeHart (6,397,395).

Nakamoto in view of Shanks discloses substantially the claimed invention including a cover 17 disclosed by Shanks, but does not disclose an eye opener and goggles.

Dehart discloses a hooded garment having an eye opener 406 and goggles 804. it would have been obvious to one having ordinary skill in the art to modify the invention of Nakamoto in view of Shanks to include an eye opener and goggles as taught by DeHart in order to better protect the wearer's face.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamoto in view of Dodson (2003/0057018).

Nakamoto discloses substantially the claimed invention, but does not disclose means for tethering. Dodson discloses a garment covering a hunter with a tether 34 and the tether connecting arrangement 30. It would have been obvious to one having ordinary skill in the art to modify the invention of Wilburn to include means for tethering as taught by Dodson in order to secure position of the person wearing the heating garment.

### ***Response to Arguments***

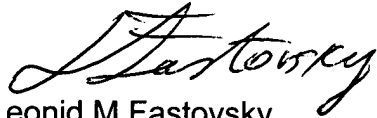
9. Applicant's arguments with respect to claims 1-8, 10-17 and 20-21 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 571-272-4778. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Leonid M Fastovsky  
Examiner  
Art Unit 3742

1/21/05

lmf

  
ROBIN O. EVANS  
PRIMARY EXAMINER  
1/24/05